

Jill F. Kopeikin (State Bar No. 160792)  
Valerie M. Wagner (State Bar No. 173146)  
GCA LAW PARTNERS LLP  
2570 W. El Camino Real, Suite 510  
Mountain View, CA 94040  
Tel: (650) 428-3900  
Fax: (650) 428-3901  
jkopeikin@gcalaw.com  
vwagner@gcalaw.com

Andrew M. Howard (Texas 24059973)\*  
SHORE CHAN DEPUMPO LLP  
901 Main Street, Suite 3300  
Dallas, TX 75202  
Telephone: (214) 593-9110  
Facsimile: (214) 593-9118  
\*Admitted Pro Hac Vice

Attorneys for Plaintiff ROTHSCHILD STORAGE  
RETRIEVAL INNOVATIONS, LLC

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

ROTHSCHILD STORAGE  
RETRIEVAL INNOVATIONS, LLC,

*Plaintiff,*

SAMSUNG ELECTRONICS CO., *et*  
*al.,*

*Defendants.*

Case No. 3:15-cv-00539 – EDL

**PLAINTIFF'S RESPONSE IN  
OPPOSITION TO SAMSUNG  
DEFENDANTS' MOTION FOR  
JUDGMENT ON THE PLEADINGS  
BASED ON 35 U.S.C. § 101  
(UNPATENTABLE SUBJECT  
MATTER)**

Date: May 26, 2015

Time: 9:00 a.m.

Courtroom: E, 15<sup>th</sup> Floor

Judge: Hon. Elizabeth D. Laporte

**PLAINTIFF'S RESPONSE IN OPPOSITION  
TO MOTION FOR JUDGMENT ON THE  
PLEADINGS BASED ON 35 U.S.C. § 101**

*3:15-cv-00539-EDL*

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1 **I. INTRODUCTION**

2 The exclusionary principle of 35 U.S.C. § 101 applies only to  
3 “fundamental truths” and does not automatically render a concept patent-  
4 ineligible. A patent-eligible concept exists when the concept integrates building  
5 blocks into something more and poses no comparable risk of pre-empting the  
6 “fundamental truths” from public use. The claims of RSRI’s<sup>1</sup> U.S. Patent No.  
7 8,437,797 (the “’797 patent”) (D.I. 76-2) disclose the use of “geographic  
8 location” information and “selectively paired relationship” concepts that are not  
9 “fundamental truths.” Samsung’s<sup>2</sup> piecemeal allegation of the individual claim  
10 elements of RSRI’s ’797 patent as “abstract ideas” ignores the transformative  
11 nature of the combination of the totality of the claim elements. When the  
12 combination of the elements is taken into account, an improved system and  
13 method for pre-defined filtering based on geographic location and/or pre-defined  
14 pairing based on an affinity group is claimed for the purpose of instantaneous,  
15 automatic, and/or selective distribution of photographic images.

16 **II. FACTUAL BACKGROUND**

17 The purpose of the ’797 patent is to “dispose one or more capturing  
18 devices in a communicative relation with one or more receiving devices for  
19 instantaneous, automatic, and/or selective distribution of images therebetween.”  
20 ’797 patent col. 2 ll. 9-12. This is achieved when the capturing and receiving  
21 devices are “disposed in a selectively paired relationship via one or more  
22 common pre-defined pairing criteria” and where “at least one digital  
23 photographic image may be filtered via at least one pre-defined transfer criteria

24 <sup>1</sup> “RSRI” hereinafter refers to Plaintiff Rothschild Storage Retrieval Innovations,  
25 LLC.

26 <sup>2</sup> “Samsung” hereinafter refers collectively to Defendants Samsung Electronics  
27 Co., Ltd., Samsung Electronics America, Inc., and Samsung Telecommunications  
America, LLC.

1 disposed on the capturing device and/or receiving device.” *Id.* at Abstract. The  
2 patent’s specification discloses embodiments for encoding geographic location  
3 information during capture and for automatic communication, where devices are  
4 disposed in a communicative relation prior to capture and automatically  
5 communicate selective images upon capture. *Id.* at col. 5 l.61 – col. 6 l. 17.

6 Claims 1, 5, and 8 are system claims, and their equivalent method claims  
7 are claims 9, 13, and 16, respectively. The claims are as follows:

8 *Claim 1. An image-capturing mobile device comprising*  
9 *a wireless receiver;*  
10 *a wireless transmitter; and*  
11 *a processor operably connected to the wireless*  
12 *receiver and the wireless transmitter, wherein the*  
13 *processor is configured to initiate and/or perform*  
14 *receiving a plurality of photographic images;*  
15 *filtering the plurality of photographic images*  
16 *using a transfer criteria; and*  
17 *transmitting, via the wireless transmitter and to a*  
18 *second mobile device, the filtered plurality of*  
19 *photographic images, wherein*  
20 *the transfer criteria is a geographic location of*  
21 *the image-capturing mobile device.*

22 *Claim 5. An image-capturing mobile device, comprising*  
23 *a wireless receiver;*  
24 *a wireless transmitter; and*  
25 *a processor operably connected to the wireless*  
26 *receiver and the wireless transmitter, wherein the*  
27 *processor is configured to initiate and/or perform*  
28 *receiving a plurality of photographic images;*  
*filtering the plurality of photographic images*  
*using a transfer criteria; and*

1                    *transmitting, via the wireless transmitter and to a*  
2                    *second mobile device, the filtered plurality of*  
3                    *photographic images, wherein*  
4                    ***the transfer criteria is a geographic location***  
5                    ***associated with a respective photographic image***  
6                    ***within the plurality of photographic images.***

7                    *Claim 8. An image-capturing mobile device, comprising*  
8                    *a wireless receiver;*  
9                    *a wireless transmitter; and*  
10                    *a processor operably connected to the wireless*  
11                    *receiver and the wireless transmitter, wherein the*  
12                    *processor is configured to initiate and/or perform*  
13                    *receiving a plurality of photographic images;*  
14                    *filtering the plurality of photographic images*  
15                    *using a transfer criteria; and*  
16                    *transmitting, via the wireless transmitter and to a*  
17                    *second mobile device, the filtered plurality of*  
18                    *photographic images, wherein*  
19                    ***the image-capturing mobile device and the***  
20                    ***second mobile device are disposed in a selectively***  
21                    ***paired relationship with one another based upon an***  
22                    ***affinity group associated with the second mobile***  
23                    ***device.***

24                    Claims 1, 5, 9, and 13 share three functions: receiving, filtering based on a  
25                    geographic location, and transmitting. The filtering in these claims use a transfer  
26                    criteria based on the specific geographic location of either the image-capturing  
27                    mobile device or is associated with a photographic image. *See* '797 patent col. 5  
28                    ll. 48-50. Claims 8 and 16 share the three functions of claims 1, 5, 9, and 13—  
receiving, filtering based on a transfer criteria, and transmitting—and include a  
pre-defined affinity group for pairing devices in a communicative relationship.  
The affinity group is a pre-defined list or identification of groups to which the

1 device owner or user belongs. *Id.* at col. 7 ll. 3-46. Embodiments of a “selectively  
2 paired relationship” include the automatic pairing without the user’s input or  
3 contribution. *Id.* at col. 11 l. 61 – col. 12 l. 4.

### 4 **III. LEGAL STANDARD**

5 When attempting to invalidate a patent on 35 U.S.C. § 101 grounds, a  
6 challenger must overcome the presumption that “every issued patent is presumed  
7 to have been issued validly absent clear and convincing evidence to the  
8 contrary.” *Open Text S.A. v. Alfresco Software Ltd.*, No. 13-CV-4843, 2014 WL  
9 4684429, at \*3 (N.D. Cal. Sept. 19, 2014); *see State Contracting & Eng’g Corp.*  
10 *v. Condotte Am., Inc.*, 346 F.3d 1057, 1067 (Fed. Cir. 2003) (“A party seeking to  
11 establish that particular claims are invalid must overcome the presumption of  
12 validity in 35 U.S.C. § 282 by clear and convincing evidence.”). “Put differently,  
13 prior to claim construction, a patent claim can be found directed towards patent  
14 ineligible subject matter if the *only* plausible reading on the patent must be that  
15 there is clear and convincing evidence of ineligibility.” *Wolf v. Capstone*  
16 *Photography, Inc.*, No. 2:13-cv-09573-CAS-PJW, 2014 WL 7639820, at \*5  
17 (C.D. Cal. Oct. 28, 2014) (internal quotations omitted) (emphasis added).

18 Section 101 defines patentable subject matter as “any new and useful  
19 process, machine, manufacture, or composition of matter, or any new and useful  
20 improvement thereof, may obtain a patent therefor, subject to the conditions and  
21 requirements of this title.” 35 U.S.C. § 101. Unpatentable exceptions to this  
22 provision are laws of nature, natural phenomena, and abstract ideas. *Assoc. for*  
23 *Molecular Pathology v. Myriad Genetics, Inc.*, 133 S.Ct. 2107, 2116 (2013). “A  
24 principle, in the abstract, is a fundamental truth; an original cause; a motive;  
25 these cannot be patented, as no one can claim in either of them an exclusive  
26 right.” *Gottschalk v. Benson*, 93 S.Ct. 253, 255 (1972) (quoting *Le Roy v.*



1 *Tatham*, 55 U.S. 156, 175 (1852). However, “an invention is not rendered  
2 ineligible for patent simply because it involves an abstract concept.” *Alice Corp.*  
3 *Pty. Ltd. v. CLS Bank Intern.*, 134 S.Ct. 2347, 2354 (2014).

4 The “concern that drives this exclusionary principle [is] one of pre-  
5 emption.” *Id.* at 2354; *see also Bilski v. Kappos*, 561 U.S. 593, 612 (2010)  
6 (finding an abstract idea alone is problematic because it “would pre-empt use of  
7 [the abstract idea] in all fields, and would effectively grant a monopoly over an  
8 abstract idea.”). As noted by Judge Mayer of the Federal Circuit, a “robust  
9 application” of § 101 ensures “that patent protection promotes, rather than  
10 impedes, scientific progress and technological innovation.” *I/P Engine, Inc. v.*  
11 *AOL Inc.*, 576 Fed.Appx. 982, 996 (Fed. Cir. 2014) (nonprecedential) (Mayer,  
12 J., concurring). But “[a]t some level, ‘all inventions...embody, use, reflect, rest  
13 upon, or apply laws of nature, natural phenomena, or abstract ideas.” *Alice*, 134  
14 S.Ct. at 2354 (quoting *Mayo Collaborative Servs. v. Prometheus Labs, Inc.*, 132  
15 S.Ct. 1289, 1293 (2012)). As such, courts must “tread carefully in construing  
16 this exclusionary principle lest it swallow all of patent law.” *Id.* at 2354.

17 Courts must therefore evaluate patent eligibility using the two-part *Mayo*  
18 test. *Id.* at 2355. First, a court must ask if the claim is “directed to one of those  
19 patent-ineligible concepts”—a law of nature, physical phenomenon, or abstract  
20 idea. *Id.* Second, if the claim is directed to one of these concepts, the court must  
21 ask “[w]hat else is there in the claims before us?” *Mayo*, 132 S.Ct. at 1297. In  
22 other words, the court must determine whether there is an “inventive concept”  
23 that “ensure[s] that the patent in practice amounts to significantly more than a  
24 patent upon the [ineligible concept] itself.” *Alice*, 134 S.Ct. at 2355.  
25 “[A]pplication[s]” of such abstract concepts “to a new and useful end” remain  
26  
27

1 eligible for patent protection. *Id.* at 2354 (citing *Gottschalk v. Benson*, 93 S.Ct.  
2 253 (1972).

#### 3 **IV. ARGUMENTS AND AUTHORITY**

##### 4 **A. The ideas of the '797 patent are not fundamental truths and do** 5 **not pre-empt the entire field of image capturing, filtering, and** 6 **transmitting.**

7 The first part of the test requires the court to identify whether a claim is  
8 directed to an abstract idea. *Content Extraction and Transmission LLC v. Wells*  
9 *Fargo Bank, Nat'l Ass'n*, 776 F.3d 1343, 1346- 1347 (Fed. Cir. 2014). “To do  
10 this, the court must identify the purpose of the claim—in other words, what the  
11 claimed invention is trying to achieve—and ask whether that purpose is  
12 abstract.” *California Inst. of Tech. v. Hughes Commc’ns Inc.*, No. 2:13-cv-  
13 07245-MRP-JEM, 2014 WL 5661290, at \*3 (C.D. Cal. Nov. 3, 2014). When  
14 analyzing whether a claim is directed to an abstract idea, some courts ask  
15 whether the claims’ steps “can be performed in the human mind, or by a human  
16 using a pen and paper.” *OpenTV, Inc. v. Apple, Inc.*, No. 14-cv-01622-HSG,  
17 2015 WL 1535328, at \*4 (N.D. Cal. Apr. 6, 2015) (quoting *Cybersource Corp.*  
18 *v. Retail Decisions, Inc.*, 654 F.3d 1366, 1372 (Fed. Cir. 2011).

19 Samsung cannot “show that [the ideas from the '797 patent, namely  
20 encoding geographic coordinates with images,] are fundamental truths or  
21 fundamental principles the patenting of which would pre-empt the use of basic  
22 tools of scientific and technological work.” *Helios Software, LLC v. SpectorSoft*  
23 *Corp.*, No. 12-081-LPS, 2014 WL 4796111, at \*17 (D. Del. Sept. 25, 2014).  
24 Samsung ignores the step of “filtering the plurality of photographic images using  
25 a transfer criteria” that is either a geographic location of the device or associated  
26 with the image. Instead, Samsung over-generalizes two concepts—(1) sorting  
27

1 photographs using a transfer criteria, and (2) sharing the sorted photographs—to  
2 align its reasoning that sorting and transmitting is a fundamental truth. (D.I. 76 at  
3 14-15). When sorting and transmitting are combined with the step of filtering  
4 images based on geographic information, as required by the '797 patent, the pen  
5 and paper test fails.

6       The encoding of geographic information, such as longitude and latitude  
7 coordinates, is not a fundamental truth because it cannot be done with pen and  
8 paper. In *Card Verification Solutions, LLC v. Citigroup Inc.*, No. 13-C-6339,  
9 2014 WL 4922524, at \*4 (N.D. Ill. Sept. 29, 2014), the court, upon review of the  
10 patent's diagrams, found that "a plausibly narrowing limitation is that of required  
11 pseudorandom tag generating software" that could not be done with pen and  
12 paper. Like in *Card Verification*, the use of a location module, such as a Global  
13 Positioning System ("GPS"),<sup>3</sup> to filter photographs based on geographic location  
14 information cannot be done with pen and paper. '797 patent col. 5 ll. 41-66; col.  
15 9 ll. 45-58. The "GPS and/or geographic location information (e.g., the latitude  
16 and longitude)" is encoded by the location system "*during the capture* of each  
17 digital photographic image." *Id.* at col. 5 ll. 41-66. No picture taker could  
18 simultaneously record the location by hand while taking the picture. The '797  
19 patent allows for automatic encoding of geographic location so that this  
20 information can be used for filtering a group of photos based on this geographic  
21 information. Therefore, "an entirely plausible interpretation of the claims include  
22 a limitation requiring [geographic location] tag generating software that could not  
23 be done with pen and paper." *Card Verification*, 2014 WL 4922524, at \*4.

24  
25  
26 <sup>3</sup> Other location modules include GLONASS (Russia); BeiDou (China); Galileo  
27 (European Union); and IRNSS (India).

1 The '797 patent claim elements—(1) filtering the plurality of photographic  
2 images using a transfer criteria;” (2) “the transfer criteria is a geographic location  
3 of the image-capturing mobile device;” (3) “the transfer criteria is a geographic  
4 location associated with a respective photographic image within the plurality of  
5 photographic images;” and (4) “the image-capturing mobile device and the  
6 second mobile device are disposed in a selectively paired relationship with one  
7 another based upon an affinity group associated with the second mobile  
8 device”—are not “fundamental truths.” These and other steps from the '797  
9 patent are not fundamental truths, but precise words of engineering and  
10 technology.

11 None of Samsung’s cited authority involve the use of geographic location  
12 information encoded by a location module such as a GPS unit for sorting data:  
13 *Cyberfone* (generic sorting); *In re TLI Communications* (sorting by time); *Wolf*  
14 (sorting by code acquired from component worn by participant); and *Intellectual*  
15 *Ventures* (sorting by user instruction). Samsung can only rely on its own  
16 hypothetical to argue that the sorting of photos based on geographic location is  
17 allegedly a fundamental truth claimed by the '797 patent. (D.I. 76 at 16).  
18 Samsung cannot clearly and convincingly show that the filtering of images based  
19 on geographic information is a fundamental truth.

20 Despite the patent’s explicit disclosure of a “geographic location” encoded  
21 by a GPS-like system, Samsung suggests that concepts such as those utilized by  
22 GPS systems are fundamental truths and preempt the entire field of sorting  
23 photographs. Without a GPS system, latitude and longitude coordinates are  
24 calculated with a sextant by measuring angles of celestial objects relative to the  
25 horizon. The Federal Circuit understood the complexity of a GPS system and  
26 holds that “the presence of the GPS receiver in the claims places a *meaningful*  
27

1 *limit on the scope of the claims.*” *SiRF Tech., Inc. v. Int’l Trade Comm’n*, 601  
2 F.3d 1319, 1332 (Fed. Cir. 2010) (emphasis added). Samsung concedes that the  
3 inclusion of a transfer criteria creates a narrower scope. *See* (D.I. 76 at 22)  
4 (“Accordingly, adding the specifics of the transfer criteria to the ’797 Patent  
5 claims simply creates a narrower application of the same abstract idea.”). The  
6 concept of filtering images based on geographic location plays a central role in  
7 the performance of ’797 patent claims. *SiRF Tech.*, 601 F.3d at 1333.  
8 Accordingly, Samsung is unable to show that the concept of filtering images  
9 using a geographic location is a fundamental truth that preempts the entire field  
10 of image capturing, filtering, and transmitting.

11 **B. The ’797 patent’s pre-defined transfer and pairing criteria are**  
12 **inventive concepts.**

13 The Court need not reach this section if it finds that the ’797 patent  
14 contains more than a mere “abstract idea.” *See e.g., Helios Software*, 2014 WL  
15 4796111, at \*17. If, however, the Court finds in the alternative, the Court is  
16 required to “search for an ‘inventive concept.’” *DDR Holdings, LLC v.*  
17 *Hotels.com, L.P.*, 773 F.3d 1245, 1255 (Fed. Cir. 2014) (quoting *Alice*, 134 S.Ct.  
18 at 2355). The court must “consider the elements of each claim—both  
19 individually **and as an ordered combination**—to determine whether the  
20 additional elements transform the nature of the claim into a patent-eligible  
21 application of that abstract idea.” *Id.* (emphasis added). “The second step in the  
22 § 101 analysis requires determining whether ‘additional substantive  
23 limitations...narrow, confine, or otherwise tie down the claim so that, in  
24 practical terms, it does not cover the full abstract idea itself.’” *Cyberfone Sys.,*  
25 *LLC v. CNN Interactive Group, Inc.*, 558 Fed.Appx. 988, 992 (Fed. Cir. 2014)  
26 (quoting *Accenture Global Servs., GmbH v. Guidewire Software, Inc.*, 728 F.3d  
27

1 1336, 1341 (Fed. Cir. 2013). (internal quotations omitted). The “geographic  
2 location” and “selectively paired relationship” concepts of the ’797 patent are  
3 not fundamental truths, but are necessarily rooted in computer technology to  
4 overcome the problem specifically arising in the realm of instantaneous and  
5 automatic geo-tagged photo sharing technologies. *See DDR Holdings*, 773 F.3d  
6 at 1257.

7  
8 1. ***A pre-defined transfer criteria is rooted in computer  
technology that confines the scope of the claims.***

9 “[T]o impart patent-eligibility to an otherwise unpatentable process under  
10 the theory that the process is linked to a machine, the use of the machine must  
11 impose meaningful limits on the claim’s scope.” *Cybersource*, 654 F.3d at 1375  
12 (internal quotation marks omitted). To be “a meaningful limit on the scope of a  
13 claim,” the addition of a machine “must play a significant part in permitting the  
14 claimed method to be performed, rather than function solely as an obvious  
15 mechanism for permitting a solution to be achieved more quickly.” *SiRF Tech.*,  
16 601 F.3d at 1333.

17 Samsung isolates the individual elements of “a wireless receiver,” “a  
18 wireless transmitter,” and “a processor” to argue that the ’797 lacks an inventive  
19 concept. (D.I. 76 at 18-19). While the ’797 patent claims do recite these three  
20 elements, the claims, when read as a whole, recite more than simply “apply[ing]  
21 it” to a computer and claiming additional functions of the processor and/or  
22 image-capturing device. *See Alice*, 134 S.Ct. at 2355, 2358; *see also California*  
23 *Inst. of Tech.*, 2014 WL 5661290, at \*13 (“When viewing claim elements as an  
24 ordered combination, the court should not ignore the presence of any element,  
25 even if the element, viewed separately, is abstract... [C]ourts should remember  
26 that a series of conventional elements may together form an unconventional,

1 patentable combination.”). Simply put, patent claims are read as a whole, not as  
2 dissected elements argued separately to overcome the presumption of validity.

3 When reading claims 1, 5, 9, and 13 in their entirety, the claims limit the  
4 processor of an image-capturing device to initiating and/or performing the  
5 filtering of photographs based on geographic location information encoded by a  
6 location system (e.g., GPS). A location module, such as a GPS system, encodes  
7 the geographic location information of the device “**during the capture** of each  
8 digital photographic image.” ’797 patent col. 5 ll. 41-66 (emphasis added). The  
9 GPS coordinates are then associated with the captured image and are used to  
10 determine which of the photographs, if any, are communicated. *Id.* at col. 9 ll. 52-  
11 58. For the ’797 patent to operate as intended, the use of the “geographic  
12 location” is necessarily rooted in computer technology to overcome the problem  
13 specifically arising in the realm of instantaneous and automatic geo-tagged photo  
14 sharing technologies. *DDR Holdings*, 773 F.3d at 1257.

15 Ignoring the necessity of a GPS-like system, Samsung generically alleges  
16 “anyone who has taken photographs before the digital era would easily recognize  
17 that the specifics of the criteria used to filter or sort images adds nothing  
18 significant to the basic process of filtering photographs.” (D.I. 76 at 22). But as  
19 the Federal Circuit noted, “the presence of the GPS receiver in the claims places  
20 a meaningful limit on the scope of the claims.” *SiRF Tech.*, 601 F.3d at 1332.

21 “It is...clear that the claims at issue do not attempt to preempt every  
22 application of the idea of [photo sorting and sharing].” *DDR Holdings*, 773 F.3d  
23 at 1259. “Rather, they recite a specific way to [filter images using geographic  
24 location information] to solve a problem faced by [standard photo sharing  
25 systems.]” *Id.* Thus, the presence of the “geographic location” concept confines  
26 the claims to “geographic location” obtained by GPS-like systems and does not  
27

1 pre-empt the generalized idea of sorting and sharing photographs. *Cf. Cyberfone*,  
2 558 Fed.Appx. at 992.

3 2. ***A pre-defined pairing criteria cannot be performed by***  
4 ***human thought alone.***

5 The '797 patent does not simply apply an "idea" to a computer, but defines  
6 the specific manner in which "the image-capturing mobile device and the second  
7 mobile device are disposed in a selectively paired relationship with one another."  
8 For independent claims 8 and 16, the selectively paired relationship is based on  
9 an affinity group that "comprises a list or identification of groups the owner or  
10 user belongs to." '797 patent col. 7 ll. 20-21. "In addition, the pairing criteria  
11 may be automatically associated with the particular device and stored on the  
12 electronic storage medium, ***without the user's input or active contribution.*** For  
13 instance...one device may be configured in an "available" or "visible" mode such  
14 that another device may be disposed in the paired relation therewith. Upon such  
15 pairing or disposition of the devices in a communicative relation with one  
16 another, in at least one embodiment, the pairing criteria is automatically  
17 associated with or stored on each of the devices for future pairing." '797 patent  
18 col. 11 l. 61 – col. 12 l. 4 (emphasis added).

19 In such embodiments, one's own human presence could not be made  
20 "invisible" from the exchange of photographs. *Cf. In re TLI Commcn's LLC*  
21 *Patent Litig.*, MDL No. 1:14md2534, 2015 WL 627858, at \*6 (E.D. Va. Feb. 6,  
22 2015) (holding an abstract idea is a "method that can be performed by human  
23 thought alone"). For the '797 patent to function as intended, the selectively paired  
24 relationship concept is "necessarily rooted in computer technology in order to  
25 overcome a problem specifically arising in the realm of [instantaneous and  
26 automatic geo-tagged photo sharing technologies]." *DDR Holdings*, 773 F.3d at  
27 1257. Specifically, the "selectively paired relationship" may include "device



1 identification or ID, a device name, social and/or affinity groups, e-mail address  
2 associated with the device or user of the device, geographic location of the  
3 device, subject identification of the image, geographic location where the image  
4 was captured, etc.” ’797 patent col. 7 ll. 9-13. An affinity group may also  
5 comprise of “a list or identification of groups the owner or user belongs to” and  
6 can “be *specified, updated, or designated on the device itself.*” *Id.* at col. 7 ll. 20-  
7 23 (emphasis added). The affinity group can be “synchronized with an interactive  
8 social network accessible via the World Wide Web” and be “synchronized with  
9 the user’s ‘friends’ or ‘contacts’ on the one or more interactive social networks”  
10 via the internet. *Id.* at col. 7 ll. 37-46.

11 Samsung’s hypothetical is demonstrative of why the “selectively paired  
12 relationship” is an inventive concept. Samsung alleges John can determine with  
13 his human mind and interaction whether he wants to “share some of his  
14 photographs from his road trip with a group such as his family or his hockey  
15 team.” (D.I. 76 at 23). But John’s family or hockey team cannot broadcast  
16 whether they are “available” or “visible” such that the pairing can be  
17 automatically associated for future pairing. *See* ’797 patent col. 11 l. 64 – col. 12  
18 l. 4. John cannot, without a technological environment, automatically  
19 synchronize and update its desired pairing groups, or automatically associate with  
20 a particular recipient “without the user’s input or active contribution.” ’797 patent  
21 col. 11 ll. 61-64.

22 Accordingly, the “selectively paired relationship” concept of claims 8 and  
23 16 are necessarily rooted in computer technology that “narrow[s], confine[s], or  
24 otherwise tie[s] down the claim[s] so that, in practical terms, it does not cover the  
25 full abstract idea [of photo sharing] itself.” *Cyberfone*, 558 Fed.Appx. at 992.

## 26 **V. CONCLUSION**

1 For all the foregoing reasons, RSRI respectfully requests the Court to  
2 deny Samsung's Motion for Judgment on the Pleadings based on 35 U.S.C. §  
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1 Dated: May 5, 2015

Respectfully submitted,

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3 /s/ Andrew M. Howard

4 Andrew M. Howard

5 Jill F. Kopeikin (State Bar No. 160792)

6 jkopeikin@gcalaw.com

7 Valerie M. Wagner (State Bar No. 173146)

8 vwagner@gcalaw.com

9 GCA LAW PARTNERS LLP

2570 W. El Camino Real, Suite 500

10 Mountain View, CA 94040

11 Telephone: (650) 428-3900

12 Facsimile: (650) 428-3901

13 Andrew M. Howard (Texas 24059973)\*

14 SHORE CHAN DEPUMPO LLP

901 Main Street, Suite 3300

15 Dallas, TX 75202

16 Telephone: (214) 593-9110

17 Facsimile: (214) 593-9118

18 \*Admitted Pro Hac Vice

19 Attorneys for Plaintiff

20 ROTHSCILD STORAGE

21 RETRIEVAL INNOVATIONS, LLC

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<u>May 5, 2015</u>	<u>/s/ Andrew M. Howard</u>
Date	Andrew M. Howard